



U.S. Department of Justice

Criminal Division

Fraud Section

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VIA ECF

October 3, 2018

Honorable Colleen McMahon
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Connolly and Black, 16-CR-370 (CM)

Dear Chief Judge McMahon:

We write to request reconsideration of the Court's ruling that the government may not offer exhibits marked after the start of trial. As the Court knows, trials unfold in unexpected ways and it is only fair to allow the government modest adjustments to its evidence that will not expand the length of trial by any significant amount. Here, the government only seeks to mark a handful of additional exhibits—documents the defendants have had for a very long time—in response to evidentiary rulings and points emphasized by the defendants in opening and on cross examination.

For example, because Mr. Breen claimed in opening that "LIBOR was a foreign concept to Matt Connolly" (Prelim. Tr. 93:19-20) and predicted that the jury would "know more about [LIBOR] than Matt Connolly ever[] did during this time period" (*id.* at 94:16-17), the government should be able to rebut that with a few exhibits that demonstrate the opposite in Mr. Connolly's own words: GX 1-293 (Attachment A) ("Certainly Libors are poised to go lower"); GX 1-294 (Attachment B) ("If they start a term lending unsecured or triparty program you will see libor come down"); GX 1-315 (Attachment C) ("NOTHING THE FED CAN DO WILL EFFECT LIBOR SPREADS.").

Mr. Breen also asserted that Mr. Connolly "left the trading to traders who understood the products, including LIBOR." (Prelim. Tr. 94:3-4.) But again, Mr. Connolly's words contradict his lawyer: GX 1-301 (Attachment D) ("HAHAHAH, I MEANT FF/LIBOR AND 3'S/1'S . . . FULLY UP AND RUNNING HERE"); GX 1-307 (Attachment E) ("tim made 2.5mm on that 3's vs 1yr libor reset today we told you about"); GX 1-309 (Attachment F) (congratulating a subordinate on a trade); GX 1-313 (Attachment G) (similar).

In addition, the Court ordered the government to make a more granular connection association between counterparties and defendants/co-conspirators, so the government seeks to introduce email exhibits tending to demonstrate that particular books belonged to Mr. Black: GX 1-304 (Attachment H); GX 1-304B (Attachment I); GX 1-304C (Attachment J); GX 1-304D (Attachment K).

For those reasons, the government urges to Court to revisit its earlier ruling.

Sincerely,

/s/

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